

## **REMARKS**

In the previous Office Action, the Examiner withdrew claims 38 – 49 and held claims 50 – 61 as constructively elected. Thus, claims 50 – 61 are pending. Applicant has amended claims 50 and 55. No new matter has been added.

### **Restriction Requirement**

In the Office Action of September 5, 2008, the Examiner restricted the claims into two separate groups. The Examiner asserted that the scope of claims 38 - 49 differs from the scope of claims 50 – 61. Accordingly, the Examiner has withdrawn claims 38 – 49 from consideration and has treated claims 50 – 61 as constructively elected. Applicants respectfully traverse the restriction. In order to establish reasons for insisting upon restriction, the Examiner must establish that a serious burden on the Examiner is prima facie shown by appropriate explanation of separate classification or separate status in the art, or a different field of search as defined in MPEP §808.02. However, the Office Action was silent on separate classification or status or different field of search. Thus, Applicants respectfully submit that for at least this reason, the Examiner has failed to establish a prima facie showing required for the restriction. In view of the above remarks, it is respectfully requested that the Examiner withdraw the restriction and examine claims 38 - 49 together with claims 50 - 61.

### **Claim Rejections - 35 USC §102**

On page 2, item 3, of the above-identified Office Action, the Examiner rejects claims 50-61 under 35 U.S.C. §102(b) over US Patent No. 5,442,401 issued to *Murakami et al.* (hereinafter “Murakami”). Applicants respectfully disagree.

Amended claim 55 recites:

A system comprising:  
a processor;  
a bit rate controller to compress a video frame of raw video image data using said processor; and  
a video controller to receive the video frame of raw video image data and to provide the video frame of raw video image data to said bit rate controller, the video controller to determine whether the processor is limited in its ability to compress video image data based on whether a difference between a compression time for a current video frame and a target frame period exceeds a threshold amount, the determining to facilitate adjusting a target frame rate based at least in part on the compression time.

A claim is anticipated only if each and every element, as set forth in the claim, is found in a single prior-art reference. MPEP Sec. 2131; *Verdegaal Bros. v. Union Oil of California*, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). Thus, among other recitations, amended claim 55 recites a “video controller to receive the video frame of raw video image data and to provide the video frame of raw video image data to said bit rate controller...” *Murakami* does not disclose or teach at least the above recitation.

The Examiner has cited detector 153 inside controller 15 and/or controller 15 as corresponding to the recited video controller of claim 55. Applicants respectfully disagree. Detector 153 detects and updates the present motion characteristics and the past motion characteristics of various time periods and provides updated information to

fuzzy inference unit 155. However, whether or not detector 153 and/or controller 15 can be characterized as the recited video controller, detector 153 does not "receive the video frame of raw video image data" because detector 153, as well as controller 15, receives only a "produced information amount" 19, not raw video image data. Produced information amount 19 is image block data that has been processed at image processor 10 via an intra-frame or inter-frame estimation mode. The image block data has also been encoded by coder 14 so as to produce a coded output having the target produced information amount specified by the coding parameters 16 (col. 5, lines 17-36). Thus, neither detector 153 nor controller 15 receives a video frame of raw video image data.

Furthermore, as neither detector 153 nor controller 15 receives a video frame of raw video image data, neither can further "provide the video frame of raw data to said bit rate controller."

§102 rejections require that the cited reference teach the claimed invention in as complete of detail as is claimed. As remarked above, Murakami simply does not disclose the recitations of claim 55. Accordingly, claim 55 is patentable over Murakami under §102.

Claim 50 recites elements similar to those of claim 55. Thus, claim 50 is patentable over Murakami for at least the same reasons as claim 50.

Claims 51 - 54 and 56 - 61 depend on claims 50 and 55, respectively, incorporating their elements. Accordingly, claims 51 - 54 and 56 - 61 are patentable over Murakami for at least the same reasons.

### **Conclusion**

Applicant submits that claims 38 - 61 are in condition for allowance. Accordingly, a Notice of Allowance is respectfully requested. If the Examiner has any questions concerning the present paper, the Examiner is kindly requested to contact the undersigned at (206) 407-1561. If any fees are due in connection with filing this paper, the Commissioner is authorized to charge the Deposit Account of Schwabe, Williamson and Wyatt, P.C., No. 50-0393.

Respectfully submitted,  
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